

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA
WINSTON-SALEM DIVISION

IN RE:)
) CASE NO: 16-51021
SAM BASS ILLUSTRATION &)
DESIGN, INC.)
)
Debtor.)
_____)

**MOTION TO SELL/AUCTION PERSONAL PROPERTY FREE AND CLEAR OF
LIENS AND TRANSFER LIENS AND CLAIMS TO PROCEEDS**

NOW COMES the Debtor, by and through counsel, and respectfully submit this Motion for an Order pursuant to U.S.C. §§ 105, 363(b), 363(f), 1303, and Federal Rules of Bankruptcy Procedure 2002 and 6004 to approve the sale of certain personal property by the Debtor and to transfer claims and liens of the North Carolina Department of Revenue (“NCDOR”) (tax lien), the Internal Revenue Service (“IRS”) (tax lien), Cabarrus County and the City of Concord (property taxes) to the proceeds of sale. In support hereof, the Debtor respectfully shows the Court as follows:

1. This is a motion filed pursuant to 11 U.S.C. § 363(f) to approve the sale of certain personal property located at 4030 Concord Pkwy. S., Concord, North Carolina (the “Property”).¹ This Court has jurisdiction over this matter and its subject matter pursuant to 28 U.S.C. §§ 157 and 1334, 11 U.S.C. § 363(f), and Bankruptcy Rule 7001(3).
2. This is a core proceeding pursuant to 28 U.S.C. § 157(b)(2).
3. Venue lies in this district pursuant to 28 U.S.C. § 1409.
4. On October 3, 2016, the Debtor filed a petition under Chapter 11 of the United States Bankruptcy Code.
5. The Chapter 11 Plan (the “Plan”) has not yet been proposed, and the exclusivity period for the Debtor’s proposal of the Plan has not expired.
6. As is evident from a review of the Schedules filed in this case, the Debtor is currently asset rich and cash poor. The Debtor, through Iron Horse Auction Co., Inc. (“Iron Horse”), wishes to hold an auction to sell the Property in order to liquidate some of its assets and turn the same into cash. The goal of the auction is to generate enough

¹ Specifically, the Property consists of approximately 50 pieces of original Sam Bass art, 70 collector guitars, and 20 guitar amplifiers. It may also include some miscellaneous NASCAR and/or rock and roll memorabilia.

money to pay all creditors in this case in full, or, alternatively, pay as much toward its debts as possible.

7. Iron Horse has prepared an Auction Marketing Proposal setting forth its plan for liquidating the Property in the most efficient and profitable manner. A copy of the Auction Marketing Proposal is attached hereto and incorporated herein as "Exhibit A."

8. An Affidavit of Thomas McInnis, Principal, Broker and Auctioneer of Iron Horse Auction Company, is attached hereto and incorporated herein as "Exhibit B."

9. While a monetary goal is not set forth in the Auction Marketing Proposal, the Affidavit states that the goal of the auction is to gross \$300,000.00 and net \$200,000.00.

10. The secured claims against the Property are as follows:

CREDITOR	TYPE OF LIEN	APPROXIMATE BALANCE OWED
NC Department of Revenue	Tax lien	\$15,253.57
Internal Revenue Service	Tax lien	\$16,617.21

11. Pursuant to 11 U.S.C. §§ 363(b) and (f), the debtor's interest in the Property may be sold free and clear of any interest in such property of an entity, other than the estate, if either the entity consents or if such entity could be compelled, in a legal or equitable proceeding, to accept a money satisfaction of such interest. Section 1303 empowers the Debtor to act under Section 363(b) and (f) to compel the sale of the Property free and clear of the liens and transfer the liens to the proceeds.

12. All proceeds of the auction, less specific fees that are paid to Iron Horse, should either be held by the Debtor's attorney in her trust account or in a similar type of account by Iron Horse until this Court can determine the proper distribution of the proceeds.

WHEREFORE, the Debtor respectfully requests that the Court enter an Order:

1. Authorizing the Debtor, through Iron Horse, to sell the Realty pursuant to 11 U.S.C. §§ 363(b) and (f) free and clear of claims of the liens of the IRS and the NCDOR;
2. Declaring that all liens against the Property attach to the proceeds of the sale;
3. Approving the payment of sale proceeds to: (1) the costs of sale to Iron Horse; (2) the satisfaction of liens on the Property in order of priority; (3) any sales taxes and/or property taxes that would result from the sale of the Property; and

(4) to the Debtor for payment of allowed administrative expenses and claims filed in the Debtor's bankruptcy proceeding;

4. Waiving the fourteen (14) day stay of the order approving the sale under F.R.C.P. 6004(h);
5. Requiring the Debtors to file a final report of sale with the Court in accordance with F.R.C.P. 6004(f); and
6. Granting such other and further relief as the Court deems just and proper.

This the 27th day of January, 2017.

/s/ Kristen S. Nardone
KRISTEN S. NARDONE
N.C. Bar No. 28063
Attorney for the Debtor

OF COUNSEL:

Davis Nardone, PC
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CERTIFICATE OF SERVICE

The undersigned certifies that the pleading or paper to which this Certificate is affixed was served upon the persons listed below electronically, when available, or by mailing a copy of the same, postage prepaid, to the address below via first class mail with the United States Postal Service:

William P. Miller
Office of the U.S. Bankruptcy Administrator

Cabarrus County Tax Collector
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Samuel Bass
Denise Bass
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Concord, NC 28025

City of Concord
c/o VaLerie Kolcaynski, Esq.
PO Box 308
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North Carolina Department of Justice
c/o Attorney General's Office
9001 Mail Service Center
Raleigh, NC 27699-9001

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Nathan Strup
Assistant U.S. Attorney
United States Attorney's Office
Middle District of North Carolina
101 S. Edgeworth Street, 4th Floor
Greensboro, NC 27401

All creditors on attached matrix

This the 27th day of January, 2017.

/s/ Kristen S. Nardone
KRISTEN S. NARDONE
N.C. Bar No. 28063

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De Lage Landen Financial Services
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Employment Security Commission
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